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SENATE BILL 576

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Stephen H. Fischmann

AN ACT

RELATING TO PUBLIC FINANCE; AMENDING THE TAX INCREMENT FOR  
DEVELOPMENT ACT TO DEFINE TAX INCREMENTS AS TAX REVENUE  
GENERATED FROM NEW BUSINESSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 5-15-3 NMSA 1978 (being Laws 2006,  
Chapter 75, Section 3) is amended to read:

"5-15-3. DEFINITIONS.--As used in the Tax Increment for  
Development Act:

[A. ~~"base gross receipts taxes" means:~~

~~(1) the total amount of gross receipts taxes  
collected within a tax increment development district, as  
estimated by the governing body that adopted a resolution to  
form that district, in consultation with the taxation and  
revenue department, in the calendar year preceding the~~

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1 ~~formation of the tax increment development district or, when an~~  
2 ~~area is added to an existing district, the amount of gross~~  
3 ~~receipts taxes collected in the calendar year preceding the~~  
4 ~~effective date of the modification of the tax increment~~  
5 ~~development plan and designated by the governing body to be~~  
6 ~~available as part of the gross receipts tax increment; and~~

7 ~~(2) any amount of gross receipts taxes that~~  
8 ~~would have been collected in such year if any applicable~~  
9 ~~additional gross receipts taxes imposed after that year had~~  
10 ~~been imposed in that year;~~

11 ~~B.]~~ A. "base property taxes" means:

12 (1) the portion of property taxes produced  
13 with respect to a parcel of real property by the total of all  
14 property tax levied on that property at the rate fixed each  
15 year by each governing body levying a property tax on the  
16 assessed value of taxable property within the tax increment  
17 development area last certified for the year ending immediately  
18 prior to the year in which a tax increment development plan is  
19 approved for the tax increment development area, or, when an  
20 area is added to an existing tax increment development area,  
21 "base property taxes" means that portion of property taxes  
22 produced with respect to a parcel of real property by the total  
23 of all property tax levied on that property at the rate fixed  
24 each year by each governing body levying a property tax upon  
25 the assessed value of taxable property within the tax increment

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1 development area on the date of the modification of the tax  
2 increment development plan and designated by the governing body  
3 to be available as part of the property tax increment; and

4 (2) any amount of property taxes that would  
5 have been collected with respect to a parcel of real property  
6 in such year if any applicable additional property taxes  
7 imposed after that year had been imposed on that property in  
8 that year;

9 [~~E-~~] B. "county option gross receipts taxes" means  
10 gross receipts taxes imposed by counties pursuant to the County  
11 Local Option Gross Receipts Taxes Act and designated by the  
12 governing body of the county to be available as part of the  
13 gross receipts tax increment;

14 [~~D-~~] C. "district" means a tax increment  
15 development district;

16 [~~E-~~] D. "district board" means a board formed in  
17 accordance with the provisions of the Tax Increment for  
18 Development Act to govern a tax increment development district;

19 E. "eligible business" means a business operation  
20 that at the time of its inclusion in a tax increment  
21 development district is either a start-up of an entirely new  
22 business or is a relocation of an existing business from  
23 outside New Mexico;

24 F. "enhanced services" means public services  
25 provided by a municipality or county within the district at a

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1 higher level or to a greater degree than otherwise available to  
2 the land located in the district from the municipality or  
3 county, including such services as public safety, fire  
4 protection, street or sidewalk cleaning or landscape  
5 maintenance in public areas; provided that "enhanced services"  
6 does not include the basic operation and maintenance related to  
7 infrastructure improvements financed by the district pursuant  
8 to the Tax Increment for Development Act;

9 G. "governing body" means the city council or city  
10 commission of a city, the board of trustees or council of a  
11 town or village or the board of county commissioners of a  
12 county;

13 H. "gross receipts tax increment" means the gross  
14 receipts taxes collected from eligible businesses within a tax  
15 increment development district [~~in excess of the base gross~~  
16 ~~receipts taxes collected~~] for the duration of the existence of  
17 a tax increment development district and distributed to the  
18 district in the same manner as distributions are made under the  
19 provisions of the Tax Administration Act;

20 I. "gross receipts tax increment bonds" means bonds  
21 issued by a district in accordance with the Tax Increment for  
22 Development Act, the pledged revenue for which is a gross  
23 receipts tax increment;

24 J. "local government" means a municipality or  
25 county;

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1           K. "municipal option gross receipts taxes" means  
2 those gross receipts taxes imposed by municipalities pursuant  
3 to the Municipal Local Option Gross Receipts Taxes Act and  
4 designated by the governing body of the municipality to be  
5 available as part of the gross receipts tax increment;

6           L. "municipality" means an incorporated city, town  
7 or village;

8           M. "owner" means a person owning real property  
9 within the boundaries of a district;

10          N. "person" means an individual, corporation,  
11 association, partnership, limited liability company or other  
12 legal entity;

13          O. "project" means a tax increment development  
14 project;

15          P. "property tax increment" means all property tax  
16 collected on parcels of real property occupied by eligible  
17 businesses within the designated tax increment development area  
18 that is in excess of the base property [~~tax~~] taxes for the  
19 parcels of real property occupied by eligible businesses until  
20 termination of the district and distributed to the district in  
21 the same manner as distributions are made under the provisions  
22 of the Tax Administration Act;

23          Q. "property tax increment bonds" means bonds  
24 issued by a district in accordance with the Tax Increment for  
25 Development Act, the pledged revenue for which is a property

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1 tax increment;

2 R. "public improvements" means on-site improvements  
3 and off-site improvements that directly or indirectly benefit a  
4 tax increment development district or facilitate development  
5 within a tax increment development area and that are dedicated  
6 to the governing body in which the district lies. "Public  
7 improvements" [~~include~~] includes:

8 (1) sanitary sewage systems, including  
9 collection, transport, treatment, dispersal, effluent use and  
10 discharge;

11 (2) drainage and flood control systems,  
12 including collection, transport, storage, treatment, dispersal,  
13 effluent use and discharge;

14 (3) water systems for domestic, commercial,  
15 office, hotel or motel, industrial, irrigation, municipal or  
16 fire protection purposes, including production, collection,  
17 storage, treatment, transport, delivery, connection and  
18 dispersal;

19 (4) highways, streets, roadways, bridges,  
20 crossing structures and parking facilities, including all areas  
21 for vehicular use for travel, ingress, egress and parking;

22 (5) trails and areas for pedestrian,  
23 equestrian, bicycle or other non-motor vehicle use for travel,  
24 ingress, egress and parking;

25 (6) pedestrian and transit facilities, parks,

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1 recreational facilities and open space areas for the use of  
2 members of the public for entertainment, assembly and  
3 recreation;

4 (7) landscaping, including earthworks,  
5 structures, plants, trees and related water delivery systems;

6 (8) public buildings, public safety facilities  
7 and fire protection and police facilities;

8 (9) electrical generation, transmission and  
9 distribution facilities;

10 (10) natural gas distribution facilities;

11 (11) lighting systems;

12 (12) cable or other telecommunications lines  
13 and related equipment;

14 (13) traffic control systems and devices,  
15 including signals, controls, markings and signage;

16 (14) school sites and facilities with the  
17 consent of the governing board of the public school district  
18 for which the facility is to be acquired, constructed or  
19 renovated;

20 (15) library and other public educational or  
21 cultural facilities;

22 (16) equipment, vehicles, furnishings and  
23 other personal property related to the items listed in this  
24 subsection;

25 (17) inspection, construction management,

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1 planning and program management and other professional services  
2 costs incidental to the project;

3 (18) workforce housing; and

4 (19) any other improvement that the governing  
5 body determines to be for the use or benefit of the public;

6 S. "resident qualified elector" means a person who  
7 resides within the boundaries of a tax increment development  
8 district or proposed tax increment development district and who  
9 is qualified to vote in the general elections held in the state  
10 pursuant to Section 1-1-4 NMSA 1978;

11 T. "state gross receipts tax" means the gross  
12 receipts tax imposed pursuant to the Gross Receipts and  
13 Compensating Tax Act, but does not include that portion  
14 distributed to municipalities pursuant to Sections 7-1-6.4 and  
15 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47  
16 NMSA 1978;

17 U. "sustainable development" means land development  
18 that achieves sustainable economic and social goals in ways  
19 that can be supported for the long term by conserving  
20 resources, protecting the environment and ensuring human health  
21 and welfare using mixed-use, pedestrian-oriented, multimodal  
22 land use planning;

23 V. "tax increment development area" means the land  
24 included within the boundaries of a tax increment development  
25 district;

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1           W. "tax increment development district" means a  
2 district formed for the purposes of carrying out tax increment  
3 development projects;

4           X. "tax increment development plan" means a plan  
5 for the undertaking of a tax increment development project;

6           Y. "tax increment development project" means  
7 activities undertaken within a tax increment development area  
8 to enhance the sustainability of the local, regional or  
9 statewide economy; to support the creation of jobs, schools and  
10 workforce housing; and to generate tax revenue for the  
11 provision of public improvements and may include:

12                   (1) acquisition of land within a designated  
13 tax increment development area or a portion of that tax  
14 increment development area;

15                   (2) demolition and removal of buildings and  
16 improvements and installation, construction or reconstruction  
17 of streets, utilities, parks, playgrounds and improvements  
18 necessary to carry out the objectives of the Tax Increment for  
19 Development Act;

20                   (3) installation, construction or  
21 reconstruction of streets, water utilities, sewer utilities,  
22 parks, playgrounds and other public improvements necessary to  
23 carry out the objectives of the Tax Increment for Development  
24 Act;

25                   (4) disposition of property acquired or held

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1 by a tax increment development district as part of the  
2 undertaking of a tax increment development project at the fair  
3 market value of such property for uses in accordance with the  
4 Tax Increment for Development Act;

5 (5) payments for professional services  
6 contracts necessary to implement a tax increment development  
7 plan or project;

8 (6) borrowing to purchase land, buildings or  
9 infrastructure in an amount not to exceed the revenue stream  
10 that may be derived from the gross receipts tax increment or  
11 the property tax increment estimated to be received by a tax  
12 increment development district; and

13 (7) grants for public improvements essential  
14 to the location or expansion of a business;

15 Z. "taxing entity" means the governing body of a  
16 political subdivision of the state, the gross receipts tax  
17 increment or property tax increment of which may be used for a  
18 tax increment development project; and

19 AA. "workforce housing" means decent, safe and  
20 sanitary dwellings, apartments, single-family dwellings or  
21 other living accommodations that are affordable for persons or  
22 families earning less than eighty percent of the median income  
23 within the county in which the tax increment development  
24 project is located; provided that an owner-occupied housing  
25 unit is affordable to a household if the expected sales price

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1 is reasonably anticipated to result in monthly housing costs  
2 that do not exceed thirty-three percent of the household's  
3 gross monthly income; provided that:

4 (1) determination of mortgage amounts and  
5 payments are to be based on down payment rates and interest  
6 rates generally available to lower- and moderate-income  
7 households; and

8 (2) a renter-occupied housing unit is  
9 affordable to a household if the unit's monthly housing costs,  
10 including rent and basic utility and energy costs, do not  
11 exceed thirty-three percent of the household's gross monthly  
12 income."